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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED BY

AUG 26 1991

MAIL BRANCH

In re Application of  
  
Robert B. Taylor  
WTRU (FM)  
Jupiter, Florida  
For Renewal of License

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File No. BRH-880926UJ

To: Chief, FM Branch

REPLY TO OPPOSITION TO PETITION TO DISMISS

1. Jupiter Broadcasting Corp. ("JBC") hereby replies to the Opposition to Petition To Dismiss filed by Robert B. Taylor. As demonstrated below, Mr. Taylor's opposition misrepresented the facts surrounding his failure to file the hearing fee for the WTRU(FM) renewal application.

2. Mr. Taylor's opposition asserts that he was not able to confirm that he was, in fact, required to pay the hearing fee until July 19, 1991 when he was informed by Martin Blumenthal, Esquire of the Commission's General Counsel's Office. This is a patent falsehood. In a letter to Paul J. Levine dated May 28, 1991, Robert Taylor made the following statement:

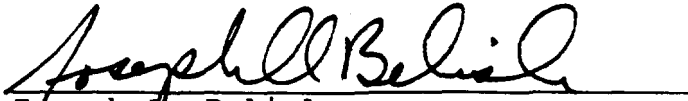
I am prepared to pay \$6000 cash. I will pay it either to the FCC as the required hearing fee, or I am willing to pay it to you to defray your application expenses. It doesn't matter to me. My \$6000 is gone in any case. It's just a question of do I pay you or do I pay the FCC. In return for my \$6000, you will withdraw your application for 99.5 at Jupiter. I am not willing to pay anything for the AM daytimer. You can continue to pursue

that if you wish, but I prefer that you also withdraw that application. This offer is good only if accepted and consummated prior to July 15, 1991.<sup>1</sup>

3. It is clear from Mr. Taylor's May 28, 1991 letter that he was acutely aware of his need to pay a hearing fee on July 15, 1991. He deliberately chose not to pay and then falsely claimed ignorance as an excuse for his non-payment.

4. In view of the foregoing, JBC submits that Mr. Taylor's failure to pay a hearing fee on July 15, 1991 was deliberate and that the facts alleged in Mr. Taylor's Opposition To Petition To Dismiss are intentional misrepresentations. Mr. Taylor's renewal application should be dismissed.

Respectfully submitted,

  
Joseph A. Belisle  
Counsel for  
Jupiter Broadcasting Corp.

August 23, 1991

Leibowitz & Spencer  
Amerifirst Building  
One S.E. Third Avenue  
Suite 1450  
Miami, Florida 33131

(305) 530-1322

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<sup>1</sup>See Exhibit A.

DECLARATION

My name is Joseph A. Belisle III and I am an employee of Leibowitz & Spencer. The attached letter from Robert B. Taylor to Paul J. Levine was mailed to me from Grand Rapids, Michigan on May 28, 1991.

I declare under penalty of perjury that the foregoing is true.

  
Joseph A. Belisle III

*Conrad*

May 28, 1991

Robert B. Taylor  
500 N. Delaware Blvd.  
Jupiter, FL 33458

Paul J. Levine  
1461 Tagus Avenue  
Gables by the Sea, FL

Dear Mr. Levine:

Without debating the morality of the concept of using federal laws to try to take a man's business away from him, its time for you and your partners to bite the bullet and admit, if only to yourselves, that you've simply targeted the wrong radio stations. The cold hard fact is that the spoils in this case (my stations), IF YOU SUCCEED, won't be worth the cost of the fight in terms of the years of your life and thousands upon thousands of dollars you will spend in trying to get them. (And bear in mind that I am not going to roll over and play dead. If necessary I will fight you beyond the FCC process and into the federal court system for as long as it takes.)

Even if you succeed, you'll be an old man wondering why you spent so much of your life trying to take something so trivial and insignificant. Instead of squandering your personal resources trying to take something that doesn't belong to you from someone who never did anything to hurt you, how much better it would be for you and the world if you put those same resources into something that would do some positive good in your lifetime, such as helping underprivileged children, volunteering in the big brother program, helping the homeless, or even donating a small sum to an important cause like cancer research or purchasing AZT treatments for AIDS victims who can't afford it. Frankly, Mr. Levine, you come across as a stereotypical uncaring yuppie who has GREED written all over him. I don't think you realize that there are other things in life more important than money.

The rest of this letter deals in facts that you may not be aware of:

1) One of the most critical questions concerning 99.5 FM at Jupiter is its signal. The station is licensed for 3000 watts ERP and DID NOT receive FCC approval to increase to 6000 watts as many other Class A FM's did recently. 99.5 will never go to 6000 watts. Its antenna is now at 300 feet and will never go any higher (more on this later). Unfortunately, 99.5 at Jupiter is locked in...cannot be moved more than a few hundred feet in any direction. It cannot go north because its blocked by the new Class C2 on 99.7 licensed to Vero Beach. It cannot go south because its blocked by full Class C WKIS on 99.9 on the right, and full Class C WEDR on 99.1 on the left. It cannot go west due to full Class C WQYK, Tampa, co-channel on 99.5. The only thing to the east is 3 miles of unusable land because its fully urbanized (built up as residential and commercial); beyond that its the Atlantic Ocean. I invite you to independently confirm these facts with your consulting engineers.

As a hypothetical example, let's say somehow, many years from now, you were able to wrestle the license away from me. At that point I would have no motivation to continue operating my tower site, so I would simply take both towers down and develop my prime residentially zoned (yes, its zoned residential right now) ten acre site into single family residential units. (The only reason the towers are there now is that they are grandfathered... they've been there for 24 years.) Now, Mr. Levine, you can kid yourself and your partners all you want, and you might even be able to fool the FCC and the FAA, but the town of Jupiter is NEVER going to allow you to build even a 300 foot tower. I know because I've lived in Jupiter for the past four years and personally watched what's going on there. (I am a registered voter in Jupiter and I voted this past April 9th for Jupiter mayor and an open council seat.)

The most recent case that makes me a believer is what happened this past winter in the WOVV-FM case. WOVV is a full Class C FM licensed to Fort Pierce that asked Jupiter for permission to build a 300 foot STL tower in the Jupiter Park of Commerce, an industrial park located less than two air miles from my site. WOVV brought in experts, lawyers, engineers, did everything they could think of, and the town said flat NO. And keep in mind this was a location that was already zoned commercial/industrial. I ask you, if Jupiter won't allow a tower built in an industrial park, where will they allow it built? The answer is they won't allow any towers built anywhere! For independent confirmation of this true story, I invite you to contact Steve Lapa, vice president of WOVV-FM.

Getting back to my hypothetical example, this means you will not be able to build a new tower anywhere in the very tiny non-short spaced area allowed for 99.5...entirely located within Jupiter town limits. You won't be able to use my towers because they'll be taken down. You won't be able to use some other tower because none exist. So the only possible place you could end up is on top of a 14 story condominium building (the Ocean Trail) located due east of the present site on the ocean. This antenna location will give you a maximum HAAT of 165 feet with 3000 watts ERP. Your usable signal will only cover Jupiter and possibly Palm Beach Gardens ...two bedroom suburbs where your only ad revenue will come from local mom and pop stores who refuse to pay more than \$7.50 per spot if you're able to collect from them at all. So if you're thinking of using the 99.5 signal to cover West Palm Beach or Riviera Beach 15 to 20 miles south of Jupiter, forget it.

(This has nothing to do with the subject of this letter, but my studies now show that the applicant who finally ends up with the FCC construction permit for 105.5 at Jupiter will have only one choice for his antenna location ...the roof of the Ocean Trail condominium.)

2) I am prepared to pay \$6000 cash. I will pay it either to the FCC as the required hearing fee, or I am willing to pay it to you to defray your application expenses. It doesn't matter to me. My \$6000 is gone in any case. It's just a question of do I pay you or do I pay the FCC. In return for my \$6000, you will withdraw your application for 99.5 at Jupiter. I am not willing to pay anything for the AM daytimer. You can continue to pursue that if you wish, but I prefer that you also withdraw that application. This offer is good only if accepted and consummated prior to July 15, 1991.

I will be at my office in Jupiter (407-744-6398) until June 5. Starting June 10 you can reach me at my office in Michigan (616-335-3038). The mailing addresses are: Robert B. Taylor, WTRU, 500 N. Delaware Blvd., Jupiter, FL 33458, and Robert B. Taylor, P.O. Box 94, Macatawa, MI 49434.

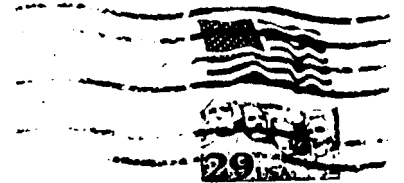
Sincerely,

Robert B. Taylor  
Licensee, WTRU & WEXI

RBT/ms

cc: Charles E. Reid  
William Washington  
Joseph A. Belisle

500 N. Delaware Blvd.  
Jupiter, FL 33458



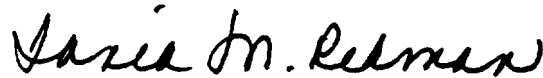
Joseph A. Belisle  
Leibowitz & Spencer  
Suite 1450, Amerifirst Bldg.  
One SE Third Ave.  
Miami, FL 33131



**CERTIFICATE OF SERVICE**

I, Tania M. Rehman, hereby certify that the attached Reply To Opposition To Petition To Dismiss submitted on behalf of Jupiter Broadcasting Corporation was sent this 23rd day of August, 1990, to the following person by U.S. Mail, First Class Postage Prepaid:

Robert B. Taylor  
500 N. Delaware Blvd.  
Jupiter, Florida 33458



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Tania M. Rehman



In re Application of  
Robert B. Taylor  
WTRU (FM)  
Jupiter, Florida  
For Renewal of License

File No. BRH-880926UJ

OPPOSITION TO JUPITER BROADCASTING CORP. REPLY

- 1) Because it introduces new allegations into this matter, Robert B. Taylor hereby submits an opposition to the "Reply to Opposition to Petition to Dismiss" filed by Jupiter Broadcasting Corp. (JBC) on August 23, 1991. As demonstrated below, I did indeed pay a hearing fee for this renewal application and did not misrepresent any facts.
- 2) My "Opposition to Petition to Dismiss" filed on August 8, 1991, states that I was not able to confirm that I as the licensee was in fact required to pay this fee until July 19, 1991, in a telephone conversation with Mr. Martin Blumenthal, FCC Assistant General Counsel. This is true. Yet JBC says this is a "falsehood." Instead, JBC's accusation is a falsehood.
- 3) I had previously spoken by phone with Stuart Bedell of the Audio Services Division and Jim Crutchfield of the FM Branch. In these calls on July 19, 1991, I was told that there had been debate among FCC staff as to whether a renewal licensee would be required to pay the same hearing fee which would be required of a new applicant. Apparently FCC staff decided renewal applicants would also be required to pay a hearing fee. Mr. Bedell and Mr. Crutchfield, however, did not know if one fee was required for the WEXI (AM)-WTRU (FM) combo renewal, or if two fees were required, one for each station. When I spoke with Mr. Blumenthal, even he did not know the answer to the question of the amount of

money I should pay, but while I was on the phone with him, he looked at reference materials in his office, then came back on the line and said I should submit two fees, totalling \$13,520.00, which I did.

4) My personal letter of May 28, 1991, to Mr. Levine (which I did not authorize JBC to release to the commission) referred to the \$6000 fee which JBC would be required to pay. It also assumed that I would be required to pay a similar fee when my renewal applications were designated for hearing. (To date they have not been.) On May 28, 1991, I believed that only JBC would be required to pay a fee in July. As previously stated to the commission, I was not able to confirm that I also was to pay a fee until my conversation with Mr. Blumenthal.

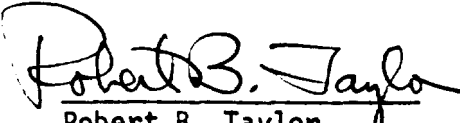
5) In its reply, JBC has chosen to try to distort my honest and truthful statements in my personal letter to Mr. Levine into something JBC thinks it can use for its own end. JBC alleges that I "deliberately chose not to pay and then falsely claimed ignorance as an excuse..." In fact I did neither. I did indeed pay as soon as I was able to ascertain two things: a) that I was required to pay at that time, and b) the amount I was required to pay. I did not falsely claim ignorance. In my reply I stated the truthful and honest facts.

6) In view of the foregoing, I submit that JBC has falsely defamed my integrity while providing absolutely nothing to show that my opposition dated August 8, 1991, was deficient in any way. JBC's deliberate and numerous filings in this matter are an obvious abuse of the commission's process and are designed to harass me for no good reason. JBC's mutually exclusive applications should be dismissed.

August 30, 1991

Robert B. Taylor  
WTRU (FM), WEXI (AM)  
500 N. Delaware Blvd.  
Jupiter, FL 33458

Respectfully submitted,

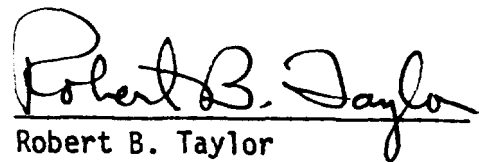
  
Robert B. Taylor  
Licensee, WTRU (FM), WEXI (AM)

(407) 744-6398  
(616) 335-3038

CERTIFICATE OF SERVICE

I, Robert B. Taylor, hereby certify that the attached Opposition to Jupiter Broadcasting Corp. Reply was sent this 30th day of August, 1991, to the following person by U.S. Mail, First Class Postage Prepaid:

Joseph A. Belisle  
Leibowitz & Spencer  
One SE 3rd Ave., Suite 1450  
Miami, FL 33131

  
Robert B. Taylor